

INTRODUCED BY COUNCILMEMBERS JANANI RAMACHANDRAN
AND KEVIN JENKINS


CITY ATTORNEY'S OFFICE

OAKLAND CITY COUNCIL

ORDINANCE NO. _____ C.M.S.

**ORDINANCE AMENDING THE OAKLAND CAMPAIGN REFORM ACT,
OAKLAND MUNICIPAL CODE SECTIONS 3.12.050 LIMITATIONS ON
CONTRIBUTIONS FROM PERSONS AND, 3.12.060, LIMITATIONS ON
CONTRIBUTIONS FROM BROAD-BASED POLITICAL COMMITTEES
TO TEMPORARILY RAISE LIMITATIONS ON CONTRIBUTIONS TO
CANDIDATES**

WHEREAS, on November 8, 2022, Oakland voters passed Measure W, which, among other things, repealed Oakland Municipal Code (OMC) Chapter 3.13, the Limited Public Financing Act of Oakland and replaced it with OMC Chapter 3.15, the Oakland Fair Elections Act, which established the Democracy Dollars public campaign financing program to make Oakland elections more equitable, accessible, and fair; and

WHEREAS, in light of extreme fiscal necessity, the City Council suspended the Charter-mandated minimum budget set asides for the FY 2023-2025 budget cycle for the Democracy Dollars Fund as it was authorized to do and, on July 12, 2023, the Public Ethics Commission voted to postpone the distribution and use of Democracy Dollars vouchers for the November 2024 election cycle; and

WHEREAS, on October 17, 2023, the City Council, through Ordinance 13767, added OMC Chapter 3.13, the Limited Public Financing Act of 2024 to temporarily restore public financing; and

WHEREAS, as set forth in Ordinance 13767 C.M.S., the Council found that the elimination of all public financing for the 2024 election is contrary to the purposes of the Oakland Fair Elections Act and temporary restoration of a limited public financing program for the 2024 election furthers the purposes of the Oakland Fair Elections Act; and that it does so by ensuring some type of public financing remains available while the Democracy Dollars is being established and this public financing furthers the purposes of building fairer elections, preventing corruption or its appearance, ensuring candidates can focus on communicating with all Oakland residents and considering policy issues rather than devoting excessive time to fundraising, ensuring that access to networks of wealthy contributors is not a prerequisite for candidates to run a competitive campaign, ensuring candidates participate in public debates, and ensuring candidates raise enough money to communicate their views and positions adequately to the public; and

WHEREAS, among other things, Measure W also repealed and reenacted the Oakland Campaign Reform Act (OCRA), which is set forth in OMC Chapter 3.12; and

WHEREAS, Measure W reduced the contribution limits in the OCRA in OMC sections 3.12.050(A) and 3.12.060(A) to base limits of \$600 and \$1,200, respectively, which, in 2022, were previously \$900 and \$1,800, respectively, following annual adjustments based on increases to the Consumer Price Index; and

WHEREAS, Measure W also added OMC section 3.12.370, which provides that the City Council “may make any amendments to this Act [the Oakland Campaign Reform Act] that are consistent with its purpose.”; and

WHEREAS, City Charter section 603(h) provides that: “Prior to enacting any amendments to laws that the Commission has the power to enforce, the City Council shall make a finding that the proposed changes further the goals and purposes of the ordinance or program in question and provide specifics substantiating the finding.”; and

WHEREAS, City Charter section 603(h) provides that absent an urgency finding, “amendments to laws that the Commission has the power to enforce [...] shall be submitted to the Commission for review and comment, prior to the passage of the amendments...”; and

WHEREAS, proposed amendments were presented to the Public Ethics Commission for review and comment and, on or about September 16, 2024, and the Commission considered the matter as a properly noticed agenda item at a special meeting of the Commission; and

WHEREAS, the Commission submitted a letter to the City Council on September 18, 2024, which the City Clerk has preserved as part of the legislative record for this matter, and the Executive Director of the Commission presented their comments at the September 19, 2024, Rules & Legislation Committee; and

WHEREAS, on September 19, 2024, the Rules & Legislation Committee considered the legislation, heard public comment and received the comments of the Commission and voted to forward the legislation to the full Council with two revisions: 1) lowering the proposed temporary contribution limits from \$900 for individuals and \$1800 for broad-based political committees, down to \$800 and \$1500, respectively; and 2) applying the requirement that candidates accept voluntary expenditure limits for the 2026 election in order to access the higher limits; and

WHEREAS, the Council has considered the comments submitted to legislative record and any oral comments or presentation provided by the Commission or their representatives regarding this matter at the time this matter is heard upon first and, if applicable, second reading; and

WHEREAS, the City Council finds the proposed amendments to the Campaign Reform Act, which temporarily increase the contribution limits and are still lower than the 2022 limits, until the Council funds the Democracy Dollars program as provided by the Fair Elections Act, Oakland Municipal Code, Chapter 3.15, further the purposes of the Campaign Reform Act by ensuring that all candidates have access to adequate financing, particularly those from

marginalized backgrounds without access to heavy backing by independent expenditures, and also by ensuring that all candidates have access to adequate financing in forthcoming elections until Democracy Dollars is fully implemented, which is especially important in light of severe cuts to the Limited Public Financing program due to the City’s strained budget situation and also because a path to full funding of the Democracy Dollars program has not yet been established and is not yet known; and

WHEREAS, similar to the Limited Public Financing program, which the Council found was appropriate to reinstate in order to bridge a gap in funding for 2024 candidates, this Ordinance is intended to temporarily to bridge the gap in potential funding sources for 2024 and 2026 candidates and, if applicable, 2025 candidates, due to unavailability of the Democracy Dollars Program and the severe cuts to the Limited Public Financing program; and

WHEREAS, the Ordinance properly leaves to the Commission the power to oversee the Democracy Dollars Fund such that the Commission may determine, in its discretion, expertise and judgment, which candidate races will be funded and, as long as a minimum potential funding of \$25,000 per certified candidate per covered office exists, the lower limits set forth in 3.12.050(B) and 3.12.060(B) apply effective January 1 of the year in which the election occurs; and

WHEREAS, the Ordinance attempts to maintain uniform general limits as established by Measure W such that for candidates who participate in the Democracy Dollars Program, the temporary higher limits of 3.12.050(A) and 3.12.060(A) apply whenever the Commission projects, that the amount of Democracy Dollars proceeds available for that office will be less than \$25,000 per certified candidate so that, in effect, all candidates for the same office will be subject to the same limits; and

WHEREAS, based on the foregoing and on any comments submitted to legislative record or presented to the Council prior to or at the time this matter is heard upon first and, if applicable, second reading, the City Council finds that the proposal, which seeks to temporarily increase contribution limits as a stopgap measure due to the lack of Democracy Dollars and LPF funding furthers the purposes identified in OMC section 3.12.030(F), “[t]o ensure that serious candidates are able to raise enough money to communicate their views and positions adequately to the public, thereby promoting public discussion of the important issues involved in political campaigns.” In addition, by allowing candidates to access higher individual contributions, on a temporary basis, to allow them to be more competitive against those candidates with support from independent expenditures, until at least \$25,000 of Democracy Dollars funding is available, the legislation furthers the purpose of 3.12.030 (A), “To ensure that all individuals and interest groups in our City have a fair and equal opportunity to participate in elective and governmental processes.”

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF OAKLAND DOES ORDAIN AS FOLLOWS:

SECTION 1. Title 3, Municipal Elections, Article II, Sections 3.12.050 and 3.12.060 of the Oakland Municipal Code are hereby amended to read as follows (additions are shown in underline; deletions are shown as strikethrough):

3.12.050 – Limitations on contributions from persons.

- A. No person shall make to any candidate and the controlled committee of such a candidate, and no candidate and the candidate's controlled committee shall receive from any such person, a contribution or contributions totaling more than ~~six-eight~~ hundred dollars (\$~~68~~00.00), adjusted bi-annually pursuant to Subsection (D), for each election except as stated in Subsection (B) of this Section.
- B. For candidates who qualify as an applicant or certified candidates as defined in Section 3.15.040 of the Oakland Fair Elections Act, no person shall make to a candidate and the controlled committee of such candidate, and no such candidate and the controlled committee of such candidate shall receive contributions totaling more than six hundred dollars (\$600.00), adjusted bi-annually pursuant to Subsection (D), for each election. A Democracy Dollar assigned by an eligible resident pursuant to Section 3.15.110 of the Oakland Fair Elections Act and any public funds disbursed to participating candidates pursuant to Section 3.15.120 of the Oakland Fair Elections Act shall not be considered a contribution under this Act.
- C. This Section is not intended to prohibit or regulate contributions to persons or broad-based political committees for the purpose of influencing elections for offices other than City offices.
- D. Beginning in January of 2025~~7~~ and in January of every odd-numbered year thereafter, the Commission shall increase the contribution limitation amounts by the percent increase, if any, in the Consumer Price Index for the preceding two (2) years, rounding to the nearest fifty-dollar (\$50.00) value. The Commission shall use the Consumer Price Index for all Urban Consumers in the San Francisco-Oakland-San Jose, CA metropolitan statistical area, as published by the United States Department of Labor, Bureau of Statistics, or if such an index is discontinued, then the most similar successor index. The Commission shall publish the adjusted contribution limits no later than the 1st of February of the year in which the adjustment occurs.

3.12.060 - Limitations on contributions from broad-based political committees.

- A. No broad-based political committee shall make to any candidate and the controlled committee of such a candidate, nor shall a candidate and the candidate's controlled committee receive from a broad-based political committee, a contribution or contributions totaling more than one thousand ~~two~~ five hundred dollars (\$1,~~2~~500.00), adjusted bi-annually pursuant to Subsection (D), for each election except as stated in Subsection B. of this Section.
- B. For candidates who qualify as applicant or certified candidates as defined in Section 3.15.040 of the Oakland Fair Elections Act, no broad-based political committee shall make to any candidate and the controlled committee of such candidate, nor shall a candidate and the candidate's controlled committee receive from a broad-based political committee, a contribution or contributions totaling more than one thousand two hundred dollars (\$1,200.00), adjusted bi-annually pursuant to Subsection D., for each election.

- C. This Section is not intended to prohibit or regulate contributions to persons or broad-based political committees for the purpose of influencing elections for offices other than City offices.
- D. Beginning in January of 2025~~7~~ and in January of every odd-numbered year thereafter, the Public Ethics Commission shall increase the contribution limitation amounts by the percent increase, if any, in the Consumer Price Index for the preceding two years, rounding to the nearest fifty-dollar (\$50.00) value. The Commission shall use the Consumer Price Index for all Urban Consumers in the San Francisco-Oakland-San Jose, CA metropolitan statistical area, as published by the United States Department of Labor, Bureau of Statistics, or if such an index is discontinued, then the most similar successor index. The Commission shall publish the adjusted contribution limits no later than February 1 of the year in which the adjustment occurs.

SECTION 2. Sunset Clause. The contributions limits in sections 3.12.050(A) and 3.12.060(A) will automatically adjust January 1, 2027 as follows: the contributions limits in sections 3.12.050(A) and 3.12.060(A) shall be equal to the then-current, CPI-adjusted limits in sections 3.12.050(B) and 3.12.060(B), and thereafter shall be increased in accordance with sections 3.12.050(D) and 3.12.060(D), respectively. While this Ordinance is in effect, for candidates who qualify as applicant or certified candidates as defined in Section 3.15.040 of the Oakland Fair Elections Act, the limits set forth in 3.12.050(B) and 3.12.060(B) shall adjust to the temporary higher limits of 3.12.050(A) and 3.12.060(A), respectively, whenever the Commission projects, pursuant to 3.15.070(C) and (E), that the amount of Democracy Dollars proceeds available for that office for that election will be less than \$25,000 per certified candidate.

For the 2026 election cycle, before any candidate may receive contributions at these temporary higher contribution limits, they must file a statement with the Public Ethics Commission on a form approved for such purpose indicating acceptance of the voluntary expenditure limits identified in Subsection 3.15.140(A), provided, however, that acceptance of the voluntary expenditure limits shall not have retroactive effect on the applicable contribution limits.

If the Commission projects, pursuant to 3.15.070(C) and (E), that the amount of Democracy Dollars proceeds available for a covered municipal office is at least \$25,000 per certified candidate, the lower limits set forth in 3.12.050(B) and 3.12.060(B) shall apply to all candidates for that office and their controlled committees beginning on January 1 of the year in which the election for the covered municipal office occurs. Contributions received prior to the effective date of this Ordinance shall be subject to the limits in effect at the time the contribution was made.

SECTION 3. Severability. If any section, subsection, sentence, clause or phrase of this Ordinance is for any reason held to be invalid or unconstitutional by decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of the Chapter. The City Council hereby declares that it would have passed this Ordinance and each section, subsection, clause or phrase thereof irrespective of the fact that one or more other sections, subsections, clauses or phrases may be declared invalid or unconstitutional

SECTION 4. Effective Date. This ordinance shall become effective immediately on final adoption if it receives six or more affirmative votes; otherwise it shall become effective upon the seventh day after final adoption.

IN COUNCIL, OAKLAND, CALIFORNIA,

PASSED BY THE FOLLOWING VOTE:

AYES – FIFE, GALLO, JENKINS, KALB, KAPLAN, RAMACHANDRAN, REID, AND
PRESIDENT FORTUNATO BAS

NOES –

ABSENT –

ABSTENTION –

ATTEST: _____

ASHA REED
City Clerk and Clerk of the Council of the
City of Oakland, California

Date of Attestation: _____

NOTICE AND DIGEST

ORDINANCE AMENDING THE OAKLAND CAMPAIGN REFORM ACT, OAKLAND MUNICIPAL CODE SECTIONS 3.12.050 LIMITATIONS ON CONTRIBUTIONS FROM PERSONS AND, 3.12.060, LIMITATIONS ON CONTRIBUTIONS FROM BROAD-BASED POLITICAL COMMITTEES TO TEMPORARILY RAISE LIMITATIONS ON CONTRIBUTIONS TO CANDIDATES

This Ordinance amends the Oakland Campaign Reform Act, Chapter 3.12 of the Oakland Municipal Code, to temporarily increase the contribution limits set for campaign contributions from persons and campaign contributions from broad-based political committees to \$800 and \$1500, respectively, for all candidates under specific circumstances, unless the availability of Democracy Dollars funding meets a certain minimum standard.